

F.#2016R00505

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

STIPULATION AND ORDER

- against -

16 CR 640 (BMC)

MARK NORDLICHT, et al.,

Defendants.

- - - - - X

WHEREAS, the undersigned agree that an efficient resolution of this case requires the production of emails and other documents that were obtained by the government, including pursuant to a court-authorized search of the offices of Platinum Partners (the “Discovery Materials”), to all defendants in this litigation (the “Defendants”), some of which may contain information protected by the attorney-client privilege or work-product doctrine (the “Potentially Privileged Materials”), and

WHEREAS, Rule 502 of the Federal Rules of Evidence provides, in pertinent part, that:

The following provisions apply . . . to disclosure of a communication or information covered by the attorney-client privilege or work-product protection. . . . (d) A federal court may order that the privilege or protection is not waived by disclosure connected with the litigation pending before the court—in which event the disclosure is also not a waiver in any other federal or state proceeding.

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned that:

1. Firewall Assistant United States Attorneys and their staff (the “Firewall Team”) will produce the Potentially Privileged Materials to the Defendants.
2. Pursuant to Federal Rule of Evidence 502(d), the Court orders that the Firewall Team’s production of Discovery Materials, including Potentially Privileged Materials, to the Defendants does not waive any party’s or non-party’s rights under the attorney-client privilege, work product doctrine, or any other applicable privilege, nor is the production a waiver of any such privilege or protection in any other federal or state proceeding.
3. By agreeing to the terms of this Stipulation and Order, and by producing the Potentially Privileged Materials pursuant thereto, the government does not concede that any of the Potentially Privileged Materials is subject to any privilege.
4. The Firewall Team will identify to defense counsel, on a rolling basis, Potentially Privileged Material that the Firewall Team intends to provide to the Assistant United States Attorneys assigned to the trial in this case (the “Trial Team”), and defense counsel may advise the Firewall Team and the other defendants (the “Parties”) of any objections.
5. In addition, defense counsel may advise the Parties of any documents that counsel believes are subject to any privilege (collectively with other objected-to Potentially Privileged Materials, the “Challenged Documents”).

6. The Parties will meet and confer as to the Challenged Documents, if any, and, if they do not reach agreement, may request a ruling from the Court. The Firewall Team will not provide Challenged Documents to the Trial Team until an agreement is reached or an order is entered.

7. The Parties agree that by agreeing to the terms of this Stipulation and Order, and by accepting the Potentially Privileged Materials pursuant thereto, the Defendants do not waive, and expressly reserve, any and all rights to challenge the government's June 22, 2016 search and seizure in this case. The government agrees not to argue that the Defendants, by accepting documents produced pursuant to this Stipulation and Order, have waived those rights.

Dated: Brooklyn, New York
November 10, 2017

BRIDGET M. ROHDE
Acting United States Attorney
Eastern District of New York

By: /s/
Allon Lifshitz
Andrew C. Gilman
Assistant U.S. Attorneys

 /s/
William Burck, Esq.
Attorney for Mark Nordlicht

 /s/
Michael S. Sommer, Esq.
Attorney for David Levy

 /s/
Gregory J. O'Connell, Esq.
Attorney for Uri Landesman

 /s/
Kevin O'Brien, Esq.
Attorney for Joseph SanFilippo

/s/

Jonathan S. Sack, Esq.
Attorney for Joseph Mann

/s/

Seth L. Levine, Esq.
Attorney for Daniel Small

/s/

F. Andino Reynal, Esq.
Attorney for Jeffrey Shulse

So Ordered. 11/11/17

THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK